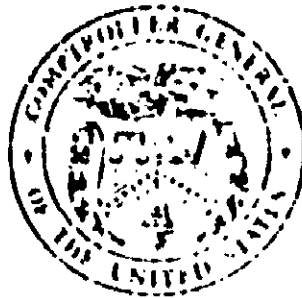


118159

**DECISION**



*Flore*

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-204991

DATE: April 20, 1982

MATTER OF: Transcon Associates Inc.

*21563*

**DIGEST:**

1. The failure to follow an IFB's instructions precisely with respect to how to enter a bid price for a deductive bid item does not render the bid unacceptable where the intended bid price is obvious from the bid.
2. Protest that awardee under a small business set aside should not have been considered a small business firm because it is controlled by a large business is dismissed since the Small Business Administration is empowered to make conclusive determinations on matters of small business size status.

Transcon Associates Inc. protests an award to Wright and Kremers, Inc. under invitation for bids (IFB) No. 528-39-81, a small business set-aside issued by the Veterans Administration to alter the food service facilities at the VA Medical Center in Buffalo, New York. Transcon contends that Wright's bid should have been rejected as non-responsive because of the firm's bidding approach, and that Wright is not a small business and therefore should have been found ineligible for the award.

We deny the protest on the first issue and dismiss the protest on the second.

The IFB required bids to be submitted on three items. Item I was a base bid item which required full alteration work. Item II required the same work as Item I except for specified deletions. Item III required the same work as Item II except for further specified deletions. The IFB provided that an award would be made for Item I unless the low bid exceeded the funds available, in which case a contract would be awarded for either Item II or Item III. The solicitation advised that "Offerors should quote a

price on each item listed," and included under the space provided for the bid for each item the statement "Bidder to show bid price in figures and in writing."

Transcon bid a separate price for each of the three items. Wright, however, quoted the full price for the base bid item (Item I), but for the deductive bid items (Items II and III) Wright instead quoted the cost of the work deleted. The bid prices submitted by Wright and Transcon were as follows:

	<u>Bid Item I</u>	<u>Bid Item II</u>	<u>Bid Item III</u>
Wright	\$177,000	-\$25,000	-\$32,000
Transcon	\$181,000	\$156,000	\$150,000

In the VA's view, bidders had to bid full prices for each item, and on that basis the agency considered Wright's approach to be a bidding mistake. The VA determined, however, that Wright's intended bids were evident on the face of the bid form and that the bids therefore could be corrected to reflect them, pursuant to the correction procedures at Federal Procurement Regulations § 1-2.406 (1964 ed.). Wright's bid for Item II was corrected to \$152,000 (\$177,000 minus \$25,000), and for Item III was corrected to \$145,000 (\$177,000 minus \$32,000). In view of the funds available, a contract for Item II then was awarded to Wright.

Transcon protests that Wright's bid should have been rejected because the firm did not indicate the total price of the deductive bid items (Items II and III) and therefore violated the IFB instructions. We disagree.

Assuming that the IFB indeed required bidders to enter full bid prices if Items II and III were bid, a failure to follow IFB instructions precisely with respect to how to enter bid prices does not necessarily render a bid unacceptable. See 52 Comp. Gen. 604 (1973). Where a bid price is as obvious as Wright's for Item II, which was the effort for which the contract was awarded, it simply would make no sense for the Government to forego the cost advantage of accepting the bid on the basis argued by Transcon.

Massee Builders, Inc., B-204450, February 1, 1982, 61 Comp.

Gen. \_\_\_\_\_, 82-1 CPD 72. It is clear that Wright quoted the cost of the work deleted in Item II rather than the total costs; a minus sign (-) before the figure \$25,000 indicated that the figure was to be subtracted from the base bid. The contracting officer examined Wright's worksheets and found they also indicated that Wright intended to bid \$152,000 for Item II.

We note here that Wright's intended bid price for Item III is not as clear as the one for Item II, since the actual bid could mean either that \$32,000 should be subtracted from the base bid of \$177,000 or from the net bid for Item II. Nonetheless, since the award was for Item II and since a price on Item III did not affect the overall acceptability of the bid, Wright's bid on Item III is irrelevant.

Since Wright's bid for Item II is clear on its face--\$177,000 less \$25,000, or \$152,000--and since Transcon's bid for Item II was \$4,000 higher, Wright properly was found to be the low responsive bidder on that item. The protest on this issue is denied.

Transcon also protests that Wright should not be considered a small business because it allegedly is controlled by a large business firm. We dismiss this ground of protest. Under 15 U.S.C. § 637(b)(6) (1976), the Small Business Administration has the authority to make conclusive determinations on matters of small business size status. Our Office therefore does not review size status protests. See Automated Datatron Inc., B-205038.2, December 30, 1981, 81-2 CPD 513.

The protest is denied in part and dismissed in part.

for   
Comptroller General  
of the United States